

REMARKS***Summary of the Amendment***

Upon entry of the above amendment, claims 1, 4, 6, 8, 12, 14, 17, 18, and 21 – 24 will have been amended. Accordingly, claims 1 – 10 and 12 – 25 currently remain pending.

Summary of the Official Action

In the instant Office Action, the Examiner has objected to the drawings for failing to show all of the recited features of the invention and to certain claims for informal matters, and has rejected claims 1 – 10, 12 – 21, 23 and 24 over the art of record. Moreover, the Examiner has indicated that claim 14 is allowed and claim 22 contains allowable subject matter and would be allowable if presented in independent forms that include the features of their respective base claims and any intervening claims. By the present amendment and remarks, Applicants submit that the objections and rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

Acknowledgment of Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's indication that claim 14 is allowed and claim 22 contains allowable subject matter and would be allowable if presented in independent forms that include the features of their respective base claims and any intervening claims.

By the present amendment, Applicants have presented claim 22 in independent and allowable form.

Applicants further note that, while claims 7 and 8 have been rejected based upon

formal matter, these claims have not been rejected over the art of record. Thus, Applicants understand that once the formal rejection of claims 7 and 8 is overcome, claims 7 and 8 will likewise contain allowable subject matter.

Objection to the Drawings is Moot

Applicants submit that the Replacement Sheets for amended Figures 2, 3, and 5 submitted with their October 14, 2005 response renders moot the Examiner's objection to the drawings.

In particular, the drawings shows rotational axes 27.1, 27.2 of wobble plates 17.1, 17.2, respectively, and that these rotational axes can be adjusted to be oriented at an angle to rotational axis 16 of the cylinder. Further, the drawings show the arrows, which identify the movement, both angular and axial, of the wobble plates. Accordingly, Applicants submit that the drawings show the features recited in at least claims 7 and 8.

While the Examiner appears to have some difficulty understanding that the wobble plates are located within and rotate with the outer drum, Applicants submit one ordinarily skilled in the art would experience no such difficulty. In any event, Applicants submit that the drawings show the wobble plates rotating about axes 27.1, 27.2, which can either be aligned with or at an angle to rotational axis 16 of the cylinder.

Further, while the Examiner is correct in that the seats are not "lifted" in the sense that the seats move radially, rather the "lifting" is disclosed and shown in the longitudinal axial direction, and the adjustment device adjusts the range of motion for the lifting device.

Because of the Examiner's obvious confusion with the term lifting, Applicants, by the present amendment, have amended to claims to change the term "lifting device" to -

--shifting device--- and the term "lift" to ---displacement---. Applicants assume this mere change in terminology should resolve any further confusion the Examiner has with the pending claims, such that the objection to the drawings will be reconsidered and withdrawn.

Accordingly, Applicants submit that the drawings show each and every recited feature in the claims, and that the drawings are acceptable. Therefore, Applicants request that the Examiner confirm the same in the next official communication to the undersigned.

Traversal of Objection to Claims

Applicants traverse the Examiner's objection to claims 1, 6, 8, 12, 13, 17, 18, 21, and 22 based upon informalities.

By the present amendment, Applicants submit that the Examiner's objections have been rendered moot.

Accordingly, Applicants submit that the pending claims are in proper form, and request that the Examiner reconsider and withdraw the objection to claims 1, 6, 8, 12, 13, 17, 18, 21, and 22 and indicate that these claims are acceptable.

Traversal of Rejection Under 35 U.S.C. § 112, Second Paragraph

Applicants traverse the rejection of claims 7, 8, and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants submit that the term angularly displaceable in claims 7 and 25 and linearly displaceable in claim 25 are not *relative terms* that would render it difficult for one ordinarily skilled in the art to readily understand the scope of the claims. In particular, Applicants note that these terms clearly and unambiguously define the

manner in which the elements are arranged, i.e., to pivot/rotate or to move in a straight line. Further, Applicants note that Figures 1 and 2 clearly and unambiguously show double ended arrows identifying a linear movement path and an angular movement path.

Moreover, Applicants note that these terms do not even arguably suggest relative terminology, e.g., large, small, close, far, etc. Instead, the above-noted terms provide a definite structural arrangement of elements, that those ordinarily skilled in the art reviewing the disclosure and figures would understand, such that the scope of the claims would be readily ascertained.

With regard to claims 7 and 8, Applicants submit that the recitation that an angle between a rotational axis of said (each) wobble plate and a rotational axis of said conveyor drum is changeable is clear and unambiguous. In this regard, Applicants refer to, e.g., paragraphs [0050] and [0052], which clearly and unambiguously discloses that the rotational axes of the wobble plates are adjustable or changeable. Because of this feature, the preset displacement distances for the articles on the roller can be adjusted or changed.

Thus, Applicants submit that one ordinarily skilled in the art reviewing the disclosure and figures would readily understand the subject matter and scope of claims 7 and 8.

Therefore, Applicants request that the Examiner reconsider and withdraw the rejection of claims 7, 8, and 25 under 35 U.S.C. § 112, second paragraph, and indicate that these claims are fully in compliance with the statute.

Traversal of Rejection Under 35 U.S.C. § 102(b)

Applicants traverse the rejection of claim 1 – 6, 9 – 13, 15 – 21, and 23 – 25 under 35 U.S.C. § 102(b) as being anticipated by CROSARA (European Patent Application No. 1 138 215). The Examiner asserts that CROSARA shows all of the recited features of the above-noted claims.

Applicants again note that known spreading drums and sliding drums provide a predetermined longitudinal axial lift (or displacement) between articles on these drums. However, due to their construction, the available lift or the longitudinal axial displacement for the articles is fixed. In contrast, the instant invention provides a conveyor drum in which a predetermined longitudinal lift for the conveyed articles can be changed or adjusted, i.e., the lift or displacement is not fixed.

While the Examiner is correct in that the seats are not “lifted” in the sense that the seats move radially with respect to the rotating cylinder, Applicants have made no representations in this regard. Applicants have consistently argued that the “lifting” is disclosed in the specification and would be understood from a review of the application and claims as being movement in the longitudinal axial direction, and that the adjustment device adjusts the range of motion for the lifting device.

Because of the Examiner’s obvious confusion with the terms “lifting” and “lift,” Applicants, by the present amendment, have amended independent claim 1 and the applicable claims depending from claim 1 to change the term “lifting device” to ---shifting device--- and the term “lift” to ---displacement---. Applicants assume this mere change in terminology should resolve any further confusion the Examiner has with the pending claims, such that the pending claims will be considered allowable over the art of record.

Further, Applicants' independent claim 1 recites, *inter alia*, an adjustment device structured and arranged to adjust at least one of a magnitude of the predetermined longitudinal axial displacement and end positions of the predetermined longitudinal axial displacement. Moreover, Applicants' independent claim 18 recites, *inter alia*, changing the spacing between the positionably adjustable seats within a predetermined range, and adjusting a magnitude of the predetermined range, whereby a magnitude of the spacing between the positionably adjustable seats is changed to the adjusted magnitude of the predetermined range. Applicants submit CROSARA fails to disclose at least the above-noted features.

As with the above-identified known spreading drums, CROSARA shows a parting drum in which cigarette portions 5a and 5b are arranged on holder slides 10. As the drum rotates, holder slides 10 move relative to each other according to a track defined in a cam drum 17. Thus, the longitudinal axial lift, displacement or parting of the cigarette portions is predefined by the tracks formed in cam drum 17. Moreover, in contrast to the instant invention, this predefined track and the magnitude of the spacing between the predefined tracks cannot be changed.

While the Examiner asserts that the features of a fixed or not fixed track is not recited in the claims, Applicants submit that this is what is recited in the feature an adjustment device structured and arranged to adjust at least one of a magnitude of the predetermined longitudinal axial displacement and end positions of the predetermined longitudinal axial displacement, as recited in at least independent claim 1, and in the feature of adjusting a magnitude of the predetermined range, whereby a magnitude of the spacing between the positionably adjustable seats is changed to the adjusted

magnitude of the predetermined range. Applicants submit that these recitations render the predetermined axial spacing adjustable, and, therefore, not fixed.

For the foregoing reasons, Applicants submit that CROSARA fails to disclose an adjustment device structured and arranged to adjust at least one of a magnitude of the predetermined longitudinal axial displacement and end positions of the predetermined longitudinal axial displacement, as recited in at least independent claim 1, and fails to disclose adjusting a magnitude of the predetermined range, whereby a magnitude of the spacing between the positionably adjustable seats is changed to the adjusted magnitude of the predetermined range, as recited in at least independent claim 18.

Further, as CROSARA merely shows sliding plates guided along a fixed path in a cam drum, Applicants submit that CROSARA fails to provide any disclosure of the wobble plates recited in at least claims 4 – 6, 9 – 13, 20, 21, 24, and 25. Further, while the Examiner continues to assert that the slides 10 of CROSARA are wobble plates, he has still not pointed to any teaching in CROSARA to support his position. In fact, as CROSARA expressly discloses that reference numeral 10 identifies a slide, the Examiner's assertions appear wholly contrary to the express disclosure of the applied art.

Because CROSARA fails to disclose at least the above-noted features, Applicants submit that the applied art fails to show each and every recited feature of the present invention, and that the Examiner has failed to provide an adequate evidentiary basis to support a rejection of anticipation under 35 U.S.C. § 102(b).

Further, Applicant submits that claims 2, 3, 15 – 19, and 23 are allowable at least for the reason that these claims depend from allowable base claims and because these

claims recite additional features that further define the present invention. In particular, Applicants submit that CROSARA fails to anticipate, *inter alia*, said conveyor drum is structured and arranged in a tobacco processing apparatus, as recited in claim 2; a said lifting device is positioned to act on each fed row of articles, as recited in claim 3; said conveyor drum is structured as a spreading drum, as recited in claim 15; said conveyor drum is formed as a sliding drum, as recited in claim 16; a machine of the tobacco processing industry comprising the above-recited at least one conveyor drum, as recited in claim 17; said process is performed by a conveyor drum, as recited in claim 19; and an apparatus to perform the recited process, in which the apparatus includes a plurality of aligned positionably adjustable seats, a lifting device coupled to said plurality of aligned positionably adjustable seats, and an adjustment device coupled to said lifting device, as recited in claim 23.

Accordingly, Applicants request that the Examiner reconsider and withdraw the rejection of claims 1 – 6, 9 – 13, 15 – 21, and 23 – 25 under 35 U.S.C. § 102(b) and indicate that these claims are allowable.

Application is Allowable

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

Authorization to Charge Deposit Account

The undersigned authorizes the charging of any necessary fees, including any extensions of time fees required to place the application in condition for allowance by

Examiner=s Amendment, to Deposit Account No. 19 - 0089 in order to maintain pendency of this application.

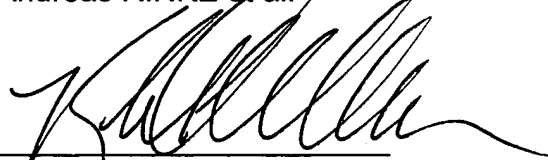
CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in each of claims 1 – 10 and 12 – 25. The claims have been amended to eliminate any arguable basis for objection or rejection based upon formal or informal matters. In addition, the applied reference of record has been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,
Andreas RINKE et al.

A handwritten signature in black ink, appearing to read 'Neil F. Greenblum', written over a horizontal line.

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April 13, 2006
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